

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

MELVIN De FREITAS, JR.,)	
)	
Plaintiff)	
)	
vs.)	No. CIV-06-344-C
)	
JUSTIN GREEN, et al.,)	
)	
Defendants)	

ORDER ADOPTING REPORT AND RECOMMENDATION

This action for habeas corpus relief brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Argo, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Argo entered a Report and Recommendation on September 1, 2006, to which Plaintiff has timely objected.* The Court therefore considers the matter de novo.

The sole basis of Plaintiff's objection is that he was unable to exhaust his administrative remedies because he was in segregation. However, Judge Argo addressed this allegation and found it lacking, and this Court agrees. There is no other basis asserted to justify any conclusion contrary to that in the Report and Recommendation.

* Plaintiff's pleading is entitled "Motion for Plaintiff to File Objection to the Report and Recommendation with the Clerk of This Court by September 21, 2006. 'Certificate of Service.'" (Dkt. No. 37.) This pleading has been construed as an Objection to the Report and Recommendation.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge (Dkt. No. 35), and for the reasons announced therein, dismisses, without prejudice, this petition for habeas corpus relief. A judgment will enter accordingly.

IT IS SO ORDERED this 25th day of September, 2006.



ROBIN J. CAUTHRON
United States District Judge